

**Before the
Federal Communications
Commission, Washington, DC 20554**

In the matter of:

Amendment of Parts 73 and 74 of the
Commission's Rules to Establish Rules for
Digital Low Power Television, Television
Translator, and Television Booster Stations and
to Amend Rules For Digital Class A Television
Stations

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MB Docket No. 03-185

To the Commission:

**Reply Comments
of the
Statewide Wireless Network
New York State Office for Technology**

I. INTRODUCTION

1. The New York State Office for Technology Statewide Wireless Network (SWN) hereby submits these reply comments in response to comments related to the Commission's *Notice of Proposed Rulemaking (NPRM)*, FCC 03-198 (released August 29, 2003), in the above-captioned proceeding.
2. The New York State Office for Technology is in the process of procuring a new Statewide Wireless Network for State, Federal and Local Governmental entities that

operate within New York State's geographic borders. SWN will provide an integrated mobile radio communications network that will be utilized by both Public Safety and Public Service agencies in New York State. It will have a digital, trunked architecture with both voice and data capabilities, and will be used in day-to-day operations, as well as for disaster and emergency situations, to more effectively and efficiently coordinate the deployment of all levels of government resources to such incidents. It will also enhance international coordination along the US/Canadian border, and play a critical role in supporting the homeland defense efforts within the State of New York.

II. REPLY COMMENTS

3. SWN concurs with the comments submitted by APCO with respect to the potential impact that allowing new digital low power television ("LPTV") stations, translator stations, and booster stations in channels 60-69 and channels 14-21 will have on public safety land mobile radio systems¹.
4. Additionally, we support APCO's comments opposing any new TV stations in channels 60-69 like the construction permit application submitted by Sunbelt Television, Inc located in San Bernardino, CA for operation on channel 64.
5. SWN also supports APCO's belief that the Commission should investigate whether existing DTV-land mobile interference rules and modeling practices need to be revised to protect critical public safety radio systems. Instances of this interference have been reported in the news media².

¹ Comments submitted by APCO, November 25, 2003.

² "Boston TV station disrupts Camco police system" - courierpostonline.com, Friday, November 1, 2002;
"Camco gets 9-1-1 signal report" - courierpostonline.com, Friday, December 12, 2003.

6. The FCC has granted the State of New York a license to operate on the statewide geographically assigned channels in the 700 MHz Public Safety Band³. SWN has a direct interest in Commission rules that could enhance the ability of Public Safety mobile radio licensees to utilize that spectrum as soon possible without jeopardizing the DTV transition from the 700 MHz band.
7. SWN is concerned that the Commission is creating a conflict after first having issued Public Safety licenses for 700 MHz spectrum, and then later accepting applications for filing for LPTV, Translator and Booster station construction permits on the same or adjacent frequencies. Where no TV conflict exists, the Public Safety operations are authorized to proceed. By granting Public Safety licenses, and similarly having auctioned off the commercial spectrum in the 700 MHz band, hasn't the Commission effectively locked out that spectrum from any new TV assignments in the same service area?
8. In our case, we specifically note that the FCC has accepted for filing construction permit applications submitted for W33BS/WNYZ-LP⁴ and WNXV-LP⁵ as stations displaced by the DTV transition and for other amendments.
9. Further, the time remaining in the DTV transition period is essentially three years. With the high degree of cable penetration in many areas, the 85% market capability for DTV station reception will have been met by December 31, 2006. At the conclusion of the transition period in those areas, any stations operating on channels 60-69 will be required to shut down operations on those channels. Does this not make for a very poor financial

³ WPTZ779 Granted and Effective on January 18, 2003.

⁴ File Number BPTTL-20030822AFU. Also seeks a change of principal city to New York, NY.

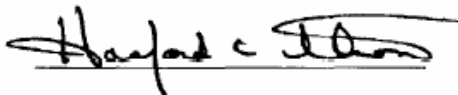
⁵ File Number BPTTL-20030714AEA. Principal City - New York, NY.

plan to have to replace antenna systems and other components of a TV station in less than three years of operation on channels 60-69?

III. CONCLUSION

10. For these reasons, we respectfully request that the Commission carefully consider its obligation under the Communications Act of 1934, as amended, with regard to the protection of life and property⁶ and the Congressional mandate in the Balanced Budget Act of 1997 to provide 24 MHz of spectrum in the 700 MHz band to Public Safety⁷, and take no action that would delay Public Safety access to this spectrum, which the Commission has already allocated to Public Safety.

Respectfully Submitted,



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December 26, 2003

⁶ Section 1: "...for the purpose of promoting safety of life and property through the use of wire and radio communication..." [47 USC Section 151].

⁷ Congress directed the Commission to reallocate 24 megahertz of the spectrum recovered from TV channels 60-69 as a result of DTV implementation for public safety services [1997 Budget Act, codified at 47 U.S.C. § 337].